# The Legal Validity of Foreign Divorce Decrees in Turkey: A Guide to Recognition and Enforcement Procedures

**Abstract** *Divorce decrees obtained from foreign courts do not automatically terminate the marriage registry in Turkey. For a foreign judgment to have legal effect in the Turkish jurisdiction, it must undergo a process known as "Recognition" (Tanıma) or "Enforcement" (Tenfiz). This article examines the legal distinctions between these two procedures, the conditions required by the International Private and Civil Procedure Law (MOHUK), and the recent administrative developments allowing for non-judicial registration of consensual divorces.*

**Keywords:** *Turkish Family Law, Recognition and Enforcement, Foreign Divorce Decree, Tanıma ve Tenfiz, International Private Law.*

## 1. Introduction

In an increasingly globalized world, cross-border marriages and, consequently, cross-border divorces have become commonplace. A common misconception among Turkish citizens living abroad is that a divorce finalized in a foreign country (e.g., Germany, USA, UK) automatically applies in Turkey. However, under the principle of sovereignty, Turkish registries are not automatically updated by foreign decisions. Without a legal intervention in Turkey, parties remain legally "married" in Turkish records, which creates significant complications regarding inheritance, remarriage, and property regimes.

## 2. The Distinction: Recognition vs. Enforcement

Turkish Law distinguishes between two concepts regarding foreign judgments:

- **Recognition (Tanıma):** This process validates the "constitutive" effect of the foreign court's decision. It effectively says, "Turkey recognizes that these two individuals are divorced." It is sufficient if the only goal is to update the civil registry (nüfus) to allow for remarriage.
- **Enforcement (Tenfiz):** This is required if the foreign judgment includes executory orders such as alimony (nafaka), compensation, or child custody arrangements. If a party wishes to collect alimony awarded by a German court through Turkish enforcement offices, a "Tenfiz" lawsuit is mandatory.

## 3. Conditions for Recognition and Enforcement

According to the International Private and Civil Procedure Law (MOHUK), Turkish courts examine specific criteria before validating a foreign decree:

- **Finality of Judgment:** The foreign court decision must be final and binding, with no possibility of appeal in the country of origin. An "Apostille" annotation is typically required to prove authenticity.
- **Right of Defense:** The defendant must have been properly served the summons and represented in the foreign court. If the divorce was granted without notifying the other party, Turkish courts will reject the recognition to protect the right to a fair trial.
- **Public Order (Kamu Düzeni):** The foreign decision must not violate Turkish public order. For instance, a decision that is manifestly unjust or violates basic human rights will not be recognized.
- **Reciprocity:** Specifically for enforcement (Tenfiz) cases, there must be a reciprocity agreement or a de facto practice of reciprocity between Turkey and the foreign country.

## 4. The Administrative Route: A Recent Development

Historically, a lawsuit was always required to recognize a foreign divorce. However, with recent amendments to the Civil Registry Services Law, a simpler administrative route has been introduced. If **both parties** (or their appointed lawyers) apply together to the Civil Registry Office (or Turkish Consulates abroad) and the foreign decision is strictly about the divorce (without contentious custody or alimony issues), the divorce can be registered without a court case.

However, if one party disagrees, cannot be located, or if there are disputes regarding custody and alimony, filing a lawsuit for Recognition/Enforcement in Family Courts remains the only legal remedy.

## 5. Conclusion

Navigating the cross-border legal landscape requires careful attention to procedural details. Failure to properly recognize a foreign divorce in Turkey can lead to "limping marriages," where parties are divorced in one country but married in another, causing chaos in inheritance and future marital status. Legal representation by an attorney specialized in Turkish Family Law is essential to ensure that the foreign decree is accurately translated into the Turkish legal system.